IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 5TH SEPTEMBER 2007 / 14TH BHADRA 1929

Bail Appl..No. 5190 of 2007()

CRIME NO. 126/07 OF THIRUVAMBADY POLICE STATION

PETITIONERS/ACCUSED NOS. 1 TO 3

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1. ALDRIN GEORGE, S/O VARGHESE,
AGED 37 YEARS, POTTANPUZHAYIL HOUSE,
PUTHIYANIDAM, THOTTUMUKKOM P.O.,
KODIYATHUR VILLAGE.

2. VARGHESE, AGED 70 YEARS,
POTTANPUZHAYIL HOUSE,
PUTHIYANIDAM, THOTTUMUKKOM P.O.,
KODIYATHUR VILLAGE.

3. ESTHER, W/O VARGHESE, AGED 65 YEARS,
POTTANPUZHAYIL HOUSE,
PUTHIYANIDAM, THOTTUMUKKOM P.O.,
KODIYATHUR VILLAGE.

BY ADV. SRI.SUNNY MATHEW

RESPONDENTS: COMPLAINANT

STATE OF KERALA, THROUGH THE
SUB INSPECTOR OF POLICE, THIRUVAMBADY POLICE
STATION, REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 5190 of 2007

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Dated this the 5th day of September, 2007

O R D E R

Application for anticipatory bail. The petitioners face allegations, inter alia, under Section 498A I.P.C. They are the husband, father-n-law, aged 70 years and mother-in-law, aged 65 years, of the defacto complainant. Crime has been registered on the basis of a private complaint filed by the defacto complainant before the learned Magistrate which was referred by the learned Magistrate to the police under Section 156(3) Cr.P.C. Investigation is in progress. The petitioners apprehend imminent arrest.

2. The learned counsel for the petitioners submits that the marriage had taken place in 2002. One child has been born in the wedlock. There is strain in the matrimony and on account of such strain vexatious allegations are raised against the petitioners. At any rate, exaggerated and fanciful allegations raised by the defacto complainant may not expose the petitioners to suffer the undeserved trauma of arrest and incarceration in prison. They are willing to co-operate with the investigation. Subject to any conditions, anticipatory bail may be granted to the petitioners, it is prayed.

3. The learned Prosecutor does not oppose the application. He submits that there is no specific allegation of any physical cruelty resulting in any injuries. The State has no objection against grant of anticipatory bail to the petitioners, subject to appropriate conditions, submits the Prosecutor. I reckon the stand taken by the learned Prosecutor as absolutely reasonable. I am satisfied that this is a fit case where directions under Section 438 Cr.P.C. can be issued in favour of the petitioners. In coming to this conclusion I take note of the reality that arrest and incarceration of the petitioners is likely to mar all possibilities of reconciliation of marital relationship. Subject to appropriate conditions, anticipatory bail can be granted to the petitioners.

4. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioners shall surrender before the learned Magistrate on 11.9.2007 at 11 a.m. The learned Magistrate shall release the petitioners on regular bail on condition that they execute bonds for Rs.25,000/- (Rupees twenty five thousand only) each with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioners shall make themselves available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 12.9.07 and 13.9.2007 and thereafter shall appear on all Mondays and Fridays between 10 a.m. and 12 noon for a period of two months and subsequently as and when directed by the Investigating Officer in writing to do so.

(d) If the petitioners do not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 11.9.06 and the police shall be at liberty thereafter to arrest the petitioners and deal with them in accordance with law.

(b) If the petitioners were arrested prior to their surrender on 11.9.2006 as directed in clause (1) above, they shall be released on bail on their executing bonds for Rs.25,000/- each without any surety undertaking to appear before the learned Magistrate on 11.9.2007.

(R. BASANT)
Judge

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